

Honorable Samuel J. Steiner
Hearing date: September 3, 2010; 9:30 a.m.
Hearing Place: Room 8206, 700 Stewart Street, Seattle, WA 98101
Responses due by: August 27, 2010; by 4:30 p.m.

IN THE UNITED STATES BANKRUPTCY COURT FOR THE
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

In re:) Chapter 7
) Bankruptcy No. 09-22923
DUGALD ALLEN and HILARY ALLEN,)
f/d/b/a Zothea Investments, Inc.,) NOTICE AND MOTION FOR AN
Debtor(s).) ORDER APPROVING COMPROMISE
OF CLAIM

NOTICE

TO: Dugald and Hilary Allen, and their attorney of record, creditors, and parties of interest.

PLEASE TAKE NOTICE that the below joined motion will be heard on the 3rd day of September, 2010, at 9:30 a.m., at the United States Courthouse, 700 Stewart Street, Seattle, Washington, in Room 7106, and the clerk is requested to note the motion on the motion docket for that day.

YOU ARE FURTHER NOTIFIED that responses or objections must be made in writing and the original filed with the Bankruptcy Court at the United States Courthouse, Room 6301, 700 Stewart Street, Seattle, Washington 98101. Copies must be served upon the United States Trustee's Office at the United States Courthouse, Room 5103, 700 Stewart Street, Seattle, Washington 98101, the above-named Judge and the undersigned attorney on or before August 27, 2010. Failure to comply with the local rule may be deemed by the court as opposition without merit. If responsive pleadings are not filed as stated above, the hearing may be stricken and an order granting the relief requested in the motion may be presented *ex parte*.

1 **MOTION**

2 COMES NOW the trustee, Edmund J. Wood, through counsel The Rigby Law Firm, and
3 Rory C. Livesey, and moves this court for an order approving the trustee's compromise of a
4 claim.

5 The details of the compromise can be summarized as follows:

6 According to the debtors' schedules, they paid \$9,306 to American Express within 90 days
7 prior to the filing of their bankruptcy petition. The payment meets all of the elements of a
8 preferential transfer under Section 547 of the Bankruptcy Code. American Express has shown that
9 it provided the debtor \$3,920.60 in new value after the preferential transfer. The new value
10 brought the balance of the claim down to \$5,385.37. Pending approval by the bankruptcy court,
11 the trustee has agreed to accept \$4,000 in satisfaction of the estate's preference claim. The trustee
12 has concluded that this settlement is reasonable under the circumstances. There is little the trustee
13 can do to dispute the new value portion of the defense. The cost of litigating the balance of the
14 claim would likely exceed the compromise amount. The settlement is reasonable in that it
15 provided the estate with a certain result without the risk and cost of further litigation.

16 The trustee has considered the following factors in deciding to approve the compromise:

- 17 a) the probability of success in resolving the claim;
18 b) the difficulties, if any, to be encountered in the matter of collection;
19 c) the complexity of resolving the claim and the expense, inconvenience and delay
20 involved; and,
21 d) the paramount interest of the creditors.
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1 WHEREFORE, the trustee prays for an order approving the compromise with American
2 Express.

3 DATED this 3rd day of August, 2010.

4 THE RIGBY LAW FIRM

5 */S/ Rory C. Livesey*

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7 Rory C. Livesey, WSBA #17601
8 Of Attorneys for Trustee